



Luis Ewing
c/o 34218 S.E. 22nd Way,
(City of) Washougal,
The State of Washington [98671-8793]

25 U.S.C. § 1914 PETITION TO INVALIDATE STATE ACTIONS

In re:

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
TACOMA, WASHINGTON

Luis Anthony Ewing
Plaintiff/Petitioner

)
Cause No.

CV 12 601 1 KLS

v.

)

Kevin Hull,
Thurman Lowans,
Jay B. Roof,
Peter Kay,
Paige Cummings,
Christine Inouye,
Kerry Stevens,
Nancy Tarbell,
Anne Montgomery,

)
25 U.S.C. § 1914 PETITION TO COURT OF
COMPETENT JURISDICTION TO INVALIDATE
ACTION UPON SHOWING OF CERTAIN
VIOLATIONS OF KITSAP COUNTY SUPERIOR
COURT Cause No. 12-5-00202-1; 127003742; Cause
No. 127003751 & Cause No. 127003769

Patrol Officer Steven Miller,
SW Misner,

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)

BILLIE Reed, Lyyski,
VIRGINIA FAULKNER,

)
)

Eugenia Cooper
CHRISTINE L. JASON,
STATE OF WASHINGTON Dept. of Children and

)
)

Family Services DSHS CPS Social Worker
Amanda Johnson

)
)

JOHN AND JANE DOES 1-100,
individually and as Husband's and Wife's,
and/or all Marital or Community Property

)
)

Respondent(s)

1
2 25 U.S.C. §1914 TO COURT OF COMPETENT JURISDICTION TO INVALIDATE ACTION
3

4 UPON SHOWING OF CERTAIN VIOLATIONS OF
5

6 25 U.S.C. § 1911 et seq. & 25 U.S.C. § 1912 et seq.
7

8 COMES NOW, Luis Anthony Ewing, counsel for the Kikiallus Indian Tribe by special
9
10 appearance and not generally pursuant to RCW 4.28.210 and submits this 25 U.S.C. § 1914
11
12 Petition to court of competent jurisdiction to invalidate action upon showing of certain violations
13 of 25 U.S.C. § 1911 et seq. and 25 U.S.C. § 1912 et seq. to the United States District Court for
14
15 the Western District of Washington, at Tacoma.

16 25 U.S.C. § 1914 reads:
17

18 **“25 U.S.C. § 1914 - Petition to court of competent jurisdiction to invalidate action upon
19 showing of certain violations.**

20 Any Indian child who is the subject of any action for foster care placement or termination of
21 parental rights under State law, any parent or Indian custodian from whose custody such child was
22 removed, and the Indian child’s tribe may petition any court of competent jurisdiction to invalidate
23 such action upon a showing that such action violated any provision of sections 1911, 1912, and 1913 of
24 this title.

25 Any Indian child who is the subject of any action for foster care placement or termination of
26 parental rights under State law, any parent or Indian custodian from whose custody such child was
27 removed, and the Indian child’s tribe may petition any court of competent jurisdiction to invalidate
28 such action upon a showing that such action violated any provision of sections 1911, 1912, and 1913 of
this title.

Source

(Pub. L. 95-608, title I, § 104, Nov. 8, 1978, 92 Stat. 3072.)”

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1 The defendant(s) have violated the entirety of all the provisions of 25 U.S.C. 1911 which
2
3 reads:

4
5 **"25 U.S.C. 1911 - Indian Tribe jurisdiction over Indian custody proceedings.**

6 **(a) Exclusive jurisdiction**

7 **An Indian tribe shall have jurisdiction exclusive as to any State over any child custody**
8 **proceeding involving an Indian child who resides or is domiciled within the reservation of such tribe,**
9 **except where such jurisdiction is otherwise vested in the State by existing Federal law. Where an**
10 **Indian child is a ward of a tribal court, the Indian tribe shall retain exclusive jurisdiction,**
11 **notwithstanding the residence or domicile of the child.**

12
13 **(b) Transfer of proceedings; declination by tribal court**

14 **In any State court proceeding for the foster care placement of, or termination of**
15 **parental rights to, an Indian child not domiciled or residing within the reservation of the Indian**
16 **child's tribe, the court, in the absence of good cause to the contrary, shall transfer such**
17 **proceeding to the jurisdiction of the tribe, absent objection by either parent, upon the petition of**
18 **either parent or the Indian custodian or the Indian child's tribe: Provided, That such transfer shall**
19 **be subject to declination by the tribal court of such tribe.**

20
21 **(c) State court proceedings; intervention**

22 **In any State court proceeding for the foster care placement of, or termination of**
23 **parental rights to, an Indian child, the Indian custodian of the child and the Indian child's tribe**
24 **shall have a right to intervene at any point in the proceeding.**

25
26 **(d) Full faith and credit to public acts, records, and judicial proceedings of Indian tribes**

27 **The United States, every State, every territory or possession of the United States, and every Indian tribe**
28 **shall give full faith and credit to the public acts, records, and judicial proceedings of any Indian tribe**
29 **applicable to Indian child custody proceedings to the same extent that such entities give full faith and**
30 **credit to the public acts, records, and judicial proceedings of any other entity.**

31
32 **(a) Exclusive jurisdiction**

33 **An Indian tribe shall have jurisdiction exclusive as to any State over any child custody**
34 **proceeding involving an Indian child who resides or is domiciled within the reservation of such tribe,**
35 **except where such jurisdiction is otherwise vested in the State by existing Federal law. Where an**
36 **Indian child is a ward of a tribal court, the Indian tribe shall retain exclusive jurisdiction,**
37 **notwithstanding the residence or domicile of the child.**

38
39 **(b) Transfer of proceedings; declination by tribal court**

40 **In any State court proceeding for the foster care placement of, or termination of**
41 **parental rights to, an Indian child not domiciled or residing within the reservation of the Indian**
42 **child's tribe, the court, in the absence of good cause to the contrary, shall transfer such**
43 **proceeding to the jurisdiction of the tribe, absent objection by either parent, upon the petition of**
44 **either parent or the Indian custodian or the Indian child's tribe: Provided, That such transfer shall**
45 **be subject to declination by the tribal court of such tribe.**

46
47 **(c) State court proceedings; intervention**

1 In any State court proceeding for the foster care placement of, or termination of
2 parental rights to, an Indian child, the Indian custodian of the child and the Indian child's tribe
3 shall have a right to intervene at any point in the proceeding.

4 (d) Full faith and credit to public acts, records, and judicial proceedings of Indian tribes
5 The United States, every State, every territory or possession of the United States, and every
6 Indian tribe shall give full faith and credit to the public acts, records, and judicial proceedings of any
7 Indian tribe applicable to Indian child custody proceedings to the same extent that such entities give
8 full faith and credit to the public acts, records, and judicial proceedings of any other entity.

9 Source
10 (Pub. L. 95-608, title I, § 101, Nov. 8, 1978, 92 Stat. 3071.)."

11 SECOND CAUSE OF ACTION

12 The defendant(s) have violated the entirety of all the provisions of 25 U.S.C. 1912 which

13 reads:

14 **"25 U.S.C. 1912 - Pending court proceedings**

15 (a) **Notice; time for commencement of proceedings; additional time for preparation**

16 In any involuntary proceeding in a State court, where the court knows or has reason to
17 know that an Indian child is involved, the party seeking the foster care placement of, or
18 termination of parental rights to, an Indian child shall notify the parent or Indian custodian and
19 the Indian child's tribe, by registered mail with return receipt requested, of the pending
20 proceedings and of their right of intervention. If the identity or location of the parent or Indian
21 custodian and the tribe cannot be determined, such notice shall be given to the Secretary in like
22 manner, who shall have fifteen days after receipt to provide the requisite notice to the parent or Indian
23 custodian and the tribe. No foster care placement or termination of parental rights proceeding shall be
24 held until at least ten days after receipt of notice by the parent or Indian custodian and the tribe or the
25 Secretary: Provided, That the parent or Indian custodian or the tribe shall, upon request, be granted up
26 to twenty additional days to prepare for such proceeding.

27 (b) **Appointment of counsel**

28 In any case in which the court determines indigency, the parent or Indian custodian shall have
the right to court-appointed counsel in any removal, placement, or termination proceeding. The court
may, in its discretion, appoint counsel for the child upon a finding that such appointment is in the best
interest of the child. Where State law makes no provision for appointment of counsel in such
proceedings, the court shall promptly notify the Secretary upon appointment of counsel, and the
Secretary, upon certification of the presiding judge, shall pay reasonable fees and expenses out of funds
which may be appropriated pursuant to section 13 of this title.

(c) Examination of reports or other documents

Each party to a foster care placement or termination of parental rights proceeding under State law involving an Indian child shall have the right to examine all reports or other documents filed with the court upon which any decision with respect to such action may be based.

(d) Remedial services and rehabilitative programs; preventive measures

Any party seeking to effect a foster care placement of, or termination of parental rights to, an Indian child under State law shall satisfy the court that active efforts have been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family and that these efforts have proved unsuccessful.

(e) Foster care placement orders; evidence; determination of damage to child

No foster care placement may be ordered in such proceeding in the absence of a determination, supported by clear and convincing evidence, including testimony of qualified expert witnesses, that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.

(f) Parental rights termination orders; evidence; determination of damage to child

No termination of parental rights may be ordered in such proceeding in the absence of a determination, supported by evidence beyond a reasonable doubt, including testimony of qualified expert witnesses, that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.

(a) Notice; time for commencement of proceedings; additional time for preparation

In any involuntary proceeding in a State court, where the court knows or has reason to know that an Indian child is involved, the party seeking the foster care placement of, or termination of parental rights to, an Indian child shall notify the parent or Indian custodian and the Indian child's tribe, by registered mail with return receipt requested, of the pending proceedings and of their right of intervention. If the identity or location of the parent or Indian custodian and the tribe cannot be determined, such notice shall be given to the Secretary in like manner, who shall have fifteen days after receipt to provide the requisite notice to the parent or Indian custodian and the tribe. No foster care placement or termination of parental rights proceeding shall be held until at least ten days after receipt of notice by the parent or Indian custodian and the tribe or the Secretary: Provided, That the parent or Indian custodian or the tribe shall, upon request, be granted up to twenty additional days to prepare for such proceeding.

(b) Appointment of counsel

In any case in which the court determines indigency, the parent or Indian custodian shall have the right to court-appointed counsel in any removal, placement, or termination proceeding. The court may, in its discretion, appoint counsel for the child upon a finding that such appointment is in the best interest of the child. Where State law makes no provision for appointment of counsel in such proceedings, the court shall promptly notify the Secretary upon appointment of counsel, and the Secretary, upon certification of the presiding judge, shall pay reasonable fees and expenses out of funds which may be appropriated pursuant to section 13 of this title.

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determination, supported by clear and convincing evidence, including testimony of qualified
8 expert witnesses, that the continued custody of the child by the parent or Indian custodian is
likely to result in serious emotional or physical damage to the child.

9 (f) Parental rights termination orders; evidence; determination of damage to child

10 No termination of parental rights may be ordered in such proceeding in the absence of a
determination, supported by evidence beyond a reasonable doubt, including testimony of
11 qualified expert witnesses, that the continued custody of the child by the parent or Indian
custodian is likely to result in serious emotional or physical damage to the child.

12 Source

13 (Pub. L. 95-608, title I, § 102, Nov. 8, 1978, 92 Stat. 3071.)"

14 The Plaintiff reserves the right to file an amended version of this complaint at any time

15 pursuant to the applicable Federal Rules of Civil Procedure.

16 The Plaintiff has nothing further to say at this time.

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22 Luis Ewing

23 Dated this 28th day of November, A.D. 2012